IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 13.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Habeas Corpus Petition No.234 of 2006

Shanthi ... Petitioner

Vs.

1. The State of Tamil Nadu,
rep. by the Secretary to Government,
Prohibition and Excise Department,
Fort St. George, Chennai-600 009.

2.The District Magistrate and District Collector,
Thiruvannamalai District, Tiruvannamalai. ...
Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus directing the respondents to produce the detenue viz.Thangavel, son of Munswamy Giramani, who is now detained in Central Prison, vellore in pursuance of the detention order passed by the 2nd respondent on 21.2.2006 in D.O.No.11/2006-C.2. before this Court, call for the records, set-aside the order and set the detenu at liberty forthwith.

For Petitioner : Mr.S.Swamidoss Manokaran

For Respondents: Mr.M.Babu Muthu Meeran
Addl. Public Prosecutor

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O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner is the wife of the detenu by name Thangavel , who was detained as a ''Bootlegger" under Tamil Nadu Act 14 of 1982 by the impugned detention order dated 21.02.2006, challenges the same in this Petition.

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2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there is enormous delay in disposal of the representation of the detenu, which vitiates the ultimate order of detention. With reference to the above claim, learned Additional Public Prosecutor has placed the details, which show that the representation of the detenu dated 4.03.2006 was received by the Government on 7.03.2006 and remarks were called for on 08.03.2006. Thereafter, the remarks were received by the Government on 17.03.2006 and the File was submitted on 20.03.2006 and the same was dealt with by the Under Secretary and the Deputy Secretary on 20.03.2006 and finally, the Minister for Prohibition and Excise passed orders on 21.03.2006. The rejection letter was prepared on 10.04.2006 and the same was sent to the detenu on 12.4.2006 and served to him on 15.04.2006. As rightly pointed out by the learned counsel for the petitioner, though the Minister for Prohibition and Excise passed an order on 21.03.2006, there is no explanation at all for taking time for preparation of rejection letter till 10.04.2006. In the absence of any explanation by the person concerned even after excluding the intervening holidays, we are of the view that the time taken for preparation of rejection letter is on the higher side and we hold that the said delay has prejudiced the detenu in disposal of his representation. On this ground, we quash the impugned order of detention.

4. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

rpa

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To

1. The Secretary to the Government, State of Tamil Nadu,Prohibition and Excise Department, Fort St. George, Chennai-600 009.

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2.The District Magistrate and District Collector,
Thiruvannamalai District, Tiruvannamalai.

3. The Superintendent, Central Prison, Vellore.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

TM (CO)
km/19.6.

HCP. No.234 of 2006

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